

**COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject

Competitive Procurement

**Policy
Number**

A-87

Page

1 of 7

Purpose

To establish a Board of Supervisors policy requiring competitive procurement of goods and services, with exemptions for certain goods, services and classes of procurement, and an approval process for case-by-case exceptions.

Background

It makes good business sense for the County of San Diego to promote the economical and efficient procurement of goods and services from contractors doing business with the County. One important means of accomplishing this goal is to adopt a formal policy of competitive procurement to govern all County procurements. Accordingly, this policy provides that County procurements shall be conducted through competition to the maximum possible extent. However, where the best interest of the County would not be served through competitive procurement, this policy provides categorical exemptions and a process for requesting exceptions to this policy.

Policy

It is the policy of the Board of Supervisors that:

The County shall procure items or services on a competitive basis unless it is in the County's best interests not to use the competitive procurement process.

The competitive procurement requirements of this policy may be satisfied through conducting either (a) Formal Bidding, or (b) Competitive Negotiated Procurement, as defined in Section 1, "Definitions."

Guidelines for Exemptions and Exceptions:

1. Definitions:

- A. Formal Bidding: A competitive procurement process in which prospective offerors respond to a solicitation for bids. A Request for Bid (RFB) is usually the solicitation vehicle for this method of procurement. The bids must comply with the specifications, terms and conditions for the needed item(s) or service(s) stated in the solicitation. The process is used when the specifications can be sufficiently defined and detailed to assure the procurement of appropriate and acceptable item(s) or service(s). Contract award is made on the basis of price to the lowest bidder who is both responsive (complies with the stated specifications) and responsible (competent and otherwise qualified to perform under any resulting contract). The County Contracting Supplemental Guides provide further definition and County procedures for this process.
- B. Competitive Negotiated Procurement: A procurement process in which prospective offerors respond to a solicitation for pricing and other qualifications, and negotiation of contract terms occurs prior to contract award. The County may initiate competitive negotiated procurements by issuing a Request for Proposal (RFP) or a letter invitation to pre-qualified sources. The offerors'

**COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject

Competitive Procurement

**Policy
Number**

A-87

Page

2 of 7

responses must comply with the terms and conditions stated in the solicitation. This process is used when specifications cannot be sufficiently defined or detailed to assure the procurement of appropriate and acceptable item(s) and service(s), and price is not the primary, or the sole, source selection factor. After receipt of proposals and completion of a source selection process, negotiations may be held with one or more offerors and a contract may be awarded based on price and other factors determining the best value for the County. A source selection process is used for RFP to select firms for negotiations.

- C. **Public Exigency:** An emergency situation when the health and safety of the public or persons in the custody or care of the County are at risk if immediate measures are not taken to resolve the problem situation and it is not possible or practical to convene a Special Meeting of the Board of Supervisors.
- D. **Single Source:** A procurement process in which item(s) or service(s) are procured from, or are a product of either:
 - 1. A single source of supply not selected through a competitive procurement process; or
 - 2. A single manufacturer, even though the items or services may be procured through a competitive procurement process (i.e., limited competition among dealers and distributors).
- E. **Sole Source:** Only one person, firm or manufacturer exists that can provide the needed item or services, and no equivalent person, firm or manufacturer is available that would meet the best interest of the County such as quality, schedule, standardization/interoperability or continuity of service.

2. **Categorical Exemptions from Competitive Procurement Policy:**

The following goods, services and classes of procurements are categorically exempt from competitive procurement requirements:

- A. **Utility Services:** The item or service to be procured is from a utility company where service connections are allowed only in geographically defined service territories or where the work involves a utility system and only the utility company itself is allowed to perform the work.
- B. **Educational Services:** Procurement of educational services from a nonprofit organization.
- C. **Services and Non-Services** acquired from other governmental agencies or through contracts awarded by other governmental agencies: based upon Services and Non-Services that are acquired directly from another governmental agency, or under a contract awarded by the federal

**COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject

Competitive Procurement

**Policy
Number**

A-87

Page

3 of 7

government or the State or another state government, or competitively by any governmental agency to a third party, when the price can be determined to be fair and reasonable.

- D. Standard Commercial Off-the-Shelf Software Packages (COTS) or Hardware Products: Procurement of software or hardware products that are ready-made, and commercially available, for sale to the general public, and designed to be easily integrated into existing systems without the need for extensive customization.
- E. Equipment Maintenance Services: Maintenance Services Agreements provided by the equipment manufacturer or dealers/ distributors.
- F. Software, Software Licenses, Hosting, and Operating System Maintenance Services: Where the County has procured software, hosting, and operating systems for its use, procurement of the continuing maintenance, hosting, and upgrades of the software and operating systems, training and renewal of software licenses, from the developer, manufacturer, or authorized reseller.
- G. Disabled Veteran Business Enterprises (DVBE): Procurements of up to \$50,000 in goods and services from a DVBE located in San Diego County and certified as a DVBE by the State of California.
- H. Architectural, Engineering and Related Professional Services: Professional services procured in accordance with Board Policy F-40 unless otherwise specified, applicable laws of the State of California and related County procedures.
- I. Medical or Surgical Equipment, Supplies or Professional Services: Procurement of medical or surgical equipment or supplies or professional services for use by a County facility if funds for such use are appropriated. "Medical or surgical equipment or supplies" means only equipment or supplies commonly, necessarily, and directly used by or under the direction of a physician or surgeon in performing their duties in a County facility.
- J. Use of Informal Competitive Process to Purchase Goods and Services: Procurement of up to \$250,000 in goods and services where the procurements are made through the use of telephone and internet quotes and in accordance with the policies and procedures set forth by the Director of Purchasing and Contracting, and provided that the Director of Purchasing and Contracting determines that the price or cost to the County is fair and reasonable.
- K. Newspapers, Publications and Subscription Services: Notices and publication services used to post notices required by law. Information sources governed by Publisher Agreement, Subscriptions (on-line or print) to newspapers, journals, and other periodicals.
- L. Legal Research Services and Publications: Legal research services and publications used for legal research and analysis.

**COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject

Competitive Procurement

**Policy
Number**

A-87

Page

4 of 7

- M. Authorization for the Chief Administrative Officer (CAO) to Contract for Services: The CAO is authorized to approve, without a competitive procurement, a service contract, not to exceed an annual value of \$30,000, where the contract services relate to the discharge of CAO official duties for the purpose of directly assisting the CAO with the performance of such duties. The CAO may instruct the Director of Purchasing and Contracting to execute the service contract approved by the CAO. The Assistant CAO, in the absence of the CAO, is authorized to approve service contracts pursuant to this provision. The CAO or the ACAO as the case may be, may not delegate the authority granted under this provision.
- N. Extensions During Pending Protest or Pending Litigation: Extension of existing contracts where the goods or services provided under the existing contract are the subject of an ongoing procurement where the results of that procurement have been protested in accordance with Board Policy A-97, "Protest Procedures for Award of Contracts, or litigation has been initiated or is believed to be pending."
- O. Non-Public Works Community Services Agreements: Procurement of non-public works services in accordance with exemption 2 J, A-87 acquired from not-for-profit organizations to provide clean up, weed abatement, graffiti removal and other similar work within San Diego County, where the work is not a public work subject to the bidding requirements of California law. The Department of Purchasing and Contracting shall promulgate guidance requiring advertising and notice for potential contractors, the selection process to be used by departments where multiple potential contractors exist, and shall establish guidelines requiring partial or full financial or in-kind matching of money or services by the selected contractor.

To confirm an exemption from this policy, procuring department shall cite and justify the applicability of the categorical exemption in their request for approval of the procurement transmitted to the appropriate contracting authority (e.g., the Board of Supervisors or the Director of Purchasing and Contracting).

3. Exceptions to Competitive Procurement Policy:

The competitive procurement requirements of this policy may not apply if, under the particular circumstances of the procurement, a single/sole source exception is warranted. The following examples are illustrative of circumstances that may be considered in authorizing case-by-case exceptions to this policy.

- A. Sole Source: Only one person, firm or manufacturer exists that can provide the needed item or services, and no equivalent person, firm or manufacturer is available that would meet the best interest of the County such as quality, schedule, standardization/interoperability or continuity of service.

**COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject

Competitive Procurement

**Policy
Number**

A-87

Page

5 of 7

B. Competition is precluded because of the existence of patent rights, copyrights, secret processes, control of the basic raw material(s) or similar circumstances, and there is no equivalent item or service.

C. Absolute Compatibility:

1. The procurement is for replacement parts or components for equipment, and no information or data is available to ensure that the parts or components obtained from another supplier will perform the same function in the equipment as the part or component to be replaced;
2. The procurement is for replacement parts or components for equipment, and the replacement parts or components would compromise the safety or reliability of the product, or would void or invalidate a manufacturer's warranty or guarantee; or
3. The procurement is for upgrades, enhancements or additions to hardware or for enhancements or additions to software, and no information and data is available to ensure that equipment or software from different manufacturers or developers will be as compatible as equipment or software from the original manufacturer(s) or developer(s).

4. Threshold Amounts for Approving Exceptions to Competitive Procurement:

Unless otherwise allowed under the County Code of Administrative Ordinances or this Policy, procurements with an estimated annual value may be approved as follows:

- A. Contracts up to \$50,000 – Director of Purchasing and Contracting.
- B. Contracts between \$50,000 - \$100,000 – Chief Administrative Officer.
- C. Contracts over \$100,000 – Board of Supervisors.
- D. In cases of Public Exigency as defined under "Definitions" above, the Chief Administrative Officer may approve Sole Source Procurements above the \$100,000 threshold without Board of Supervisors' approval.

5. Letters Requesting an Exception to this Policy:

Whether requesting approval by the Director of Purchasing and Contracting, the Chief Administrative Officer, or the Board of Supervisors, letters and emails requesting an exception to this policy shall conform to the following format and include the following information:

- A. Introductory paragraph about the procurement.

**COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject

Competitive Procurement

**Policy
Number**

A-87

Page

6 of 7

B. Items or services, term period, and estimated value.

C. Benefits to the County of San Diego.

D. Why the procurement qualifies for an exception.

E. Determination of Fair and Reasonable Price.

6. Processing of Contracts Resulting from Any Procurement:

Contracts approved in accordance with this policy, shall be processed as follows:

A. Procurements approved and processed by the Director of Purchasing and Contracting: (i) All exempt procurements, as described in Section 2, "Categorical Exemptions," above, and (ii) all procurement exceptions in annual fiscal amounts of up to \$100,000, as described in Section 3, "Exceptions," above.

B. All procurements described in Section 3, "Exceptions," above in annual fiscal amounts over \$100,000 shall be forwarded, with a recommendation, to the Board of Supervisors for approval; and

C. Notwithstanding the foregoing, the Chief Administrative Officer may approve any contract as an exception to competitive procurement in accordance with the Public Exigency provision in Section 4 D above.

Where the applicable authority denies a request for a noncompetitive procurement, the procurement shall be conducted through the use of the appropriate Formal Bidding or Competitive Negotiated Procurement process.

7. Advertising:

For Board-approved procurements, the procuring department shall advertise the proposed procurement in an appropriate business newspaper, or post the proposed procurement on the internet as provided for by the Department of Purchasing and Contracting unless waived by the Board of Supervisors. For procurements less than \$100,000, the Director of Purchasing and Contracting shall have discretion to advertise.

**COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject

Competitive Procurement

**Policy
Number**

A-87

Page

7 of 7

Responsible Departments

1. Department of Purchasing and Contracting

Sunset Date

This policy will be reviewed for continuance by 12-31-2020.

References

Board Action 02-24-81 (134)
02-06-90 (43)
05-15-96 (11)
01-28-03 (16)
02-27-07 (9)
12-09-08 (33)
06-28-11 (9)
12-04-12 (13)
08-06-13 (8)